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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,373	02/28/2002	Maurice Sharp	PALM-3781.US.P	3394

7590

06/19/2003

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EXAMINER

JASMIN, LYNDIA C

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/087,373

Applicant(s)

SHARP, MAURICE

Examiner

Lynda C Jasmin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: on page 1, applicant should provide the application number of co-pending application to be considered.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 10-12, 20 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Willner et al. (2002/0169677 A1).

Willner et al. discloses a networked device (700) for dispensing software having:

a bus (via a direct connection, such as a Universal Serial Bus (USB) connection), a memory unit (via 730) coupled with the bus for storing a software program (via executable consumption program such as electronic book, song, movie and/or map), a display device (via 706 as illustrated in Fig 4) coupled with the bus, a communications interface coupled with the bus for communicating with a portable

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computer system (consuming device 800; such as PDA), a network interface coupled with the bus for communicatively coupling with a remote network server (box 39, lines 7-16), a device coupled with the bus (via payment device 160) for receiving a payment for the software program (box 46, lines 5-10), and a processor (via 710) coupled with the bus for transferring the software program (executable consumption program or consumable item) to the portable computer system in response to the payment (box 61, lines 5-8).

The communications interface is a wireless communications interface (box 40, lines 1-6).

4. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Panofsky et al. (2002/0161476 A1).

Panofsky et al. discloses a networked software dispensing system having a bus (via USB, IrDA, or parallel port connector), a memory unit (solid state memory) coupled with the bus for storing a software program (such as digital files), a display device (interface screen 11 via 90) coupled with the bus, a communications interface (box 27) coupled with the bus for communicating with a portable electronic device (either a laptop or a personal digital assistant), a device for accepting a payment for said software program coupled with said bus (inserting coins, bills, or swiping a credit card), and a processor coupled with the bus for transferring said software program to said portable electronic device in response to said payment (via computer system locating at the vending machine or host terminal, box 46, lines 1-8). The communications interface is a wireless communications interface (box 93).

Panofsky et al further discloses a network interface for communicating with a remote network server (box 47). The remote network server transmits additional software to the network interface for storage on the memory unit (box 32). The display device displays an emulated portable computer system (via device synchronization driver, box 50, 8-14). The network interface communicates a backup configuration of the portable computer system to the remote network server (via uploading large files from the handheld device, box 50, lines 39-44). The configuration of the portable computer system is restored using the backup configuration (). The display device displays, in conjunction with the backup configuration, an emulated version of the portable computer system box 50, line 25-38). The remote network server (via central server) archives an inactive software program for the portable computer system (via the online account). The remote network server transmits an updated version of the software program to the portable computer system (box 75).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wang et al. (2002/0023215 A1), Quarendon et al. (2002/0023028 A1), Nielsen et al. (2002/0099658 A1), Parry (6,470,232 B2), Friedman (2002/0188863 A1) and Lewis (2003/0040962 A1) are cited as art of interest.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-

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0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.

  
Lynda Jasmin  
Examiner  
Art Unit 3627

lj  
June 13, 2003